

REMARKS

This application was originally filed on 31 October 1999 with fifty-three claims, four of which were written in independent form. No claims have been allowed. Claims 1-14, 27-34, and 42 have been amended to correct the dependency of the claims, or to broaden the term "desiccant compound" to "desiccant."

Claims 32-34 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The applicant has amended Claims 32-34 as suggested by the Examiner to overcome this rejection.

Claims 1-53 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner objected to the use of "compound" in Claims 1-42. The applicant has amended the claims to remove the term compound, and where appropriate replace compound with desiccant.

Claims 1-53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,939,785 to Klonis et al. ("Klonis") in view of Japanese Patent JP60129139A to Matsuoka et al. ("Matsuoka") and U.S. Patent No. 5,591,379 to Shores ("Shores"). Claims 1-10, 14-23, 27, 31, 32, and 35-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,610,438 to Wallace et al. ("Wallace") in view of Matsuoka and Shores. The applicant respectfully disagrees and submits the Examiner has failed to present a prima facie case of obviousness.

"To support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

The Examiner has the duty to present a prima facie obviousness rejection. The Examiner has not pointed to any teaching in the prior art suggesting the combination proposed by the Examiner. Instead, the Examiner merely states, "It would have been obvious to one of ordinary

skill in the art at the time of the invention to substitute the desiccant of JP'139 in the particular electronics devices disclosed by Klonis because the two references are solving the same problems and use of the zeolite/urethane composition would obtain the benefits described in JP'139." "One of ordinary skill in the art at the time of the invention would have found it obvious to employ the polymers suggested by Shores as a viable substitute for the polymers of Klonis in view of JP'139 because it solves the same problem and offers the benefits described, in particular to be effective at high conditioning and operating temperatures for the zeolite and the electronic equipment, which is also a goal of both Klonis and JP'139." "It would have been obvious to one of ordinary skill in the art at the time of the invention to employ zeolite in a binder (urethane is a polyamide) as a viable substitute for the metal getter of Wallace because it solves the same problem and offers the benefits described including flexible handling characteristics, or may be considered an equivalent in utility and therefore selected for ordinary economic or engineering considerations." "One of ordinary skill in the art at the time of the invention would have found it obvious to employ the polymers suggested by Shores as a viable substitute for the metal getter of Wallace or the getter combination of Wallace in view of JP'139 because it solves the same problem and offers the benefits described, in particular to be effective at high conditioning and operating temperatures for the zeolite and the electronic equipment, which is also a goal of both Wallace and JP'139."

The applicant respectfully submits that Klonis, Matsuoka, Shores and Wallace do not show, teach, or suggest "a desiccant able to reversibly absorb a carbonxylic acid passivation material" as recited by amended Claims 1, 14, 27, and 42—all of the independent claims in the present application. Klonis teaches a "material time-releasing the passivant within the enclosure" (col. 5, line 56). The others concentrate on the gettering function and appear silent on the ability to time-release a passivant. Furthermore, Matsuoka and Shores do not address the getter environment of a micromechanical device. Unlike typical microelectronic devices, the micromechanical device requires a lubrication layer.

In view of the differences between the intended uses of the prior art references, the Examiner has failed to show an express or implied suggestion in the art, or provide any line of reasoning as to why the artisan would have found the claimed invention to have been obvious in

light of the teachings of the references as required by Ex Parte Clapp.

For the reasons stated above, the Examiner has not met the burden of presenting a prima facie case of obviousness. Therefore, the rejection under 35 U.S.C. § 103(a) is defective and should be withdrawn.

Claims 1-53 were rejected under the judicially created doctrine of obviousness-type double patenting as being over Claims 1-15 of Klonis in view of Matsuoka and Shores. The applicant respectfully disagrees and submits, for the reasons argued above, that the Examiner has failed to present a prima facie case of obviousness.

In view of the amendments and the remarks presented herewith, it is believed that the claims currently in the application accord with the requirements of 35 U.S.C. § 112 and are allowable over the prior art of record. Therefore, it is urged that the pending claims are in condition for allowance. Reconsideration of the present application is respectfully requested.

Respectfully submitted,



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